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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,115	08/25/1999	PETER H. VAN DER VEEN	21336-703	6121

7590 09/29/2003

SQUIRE, SANDERS & DEMPSEY LLP  
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EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 09/29/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/383,115	VAN DER VEEN, PETER H.
	Examiner Joseph E. Avellino	Art Unit 2143
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>		
<small> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul> </small>		
<b>Status</b>		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>11 August 2003</u> .		
2a) <input type="checkbox"/> This action is FINAL.      2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>17-29</u> is/are pending in the application.		
4a) Of the above claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>17-29</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. <small>Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</small>		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. <small>If approved, corrected drawings are required in reply to this Office action.</small>		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <small>* See the attached detailed Office action for a list of the certified copies not received.</small>		
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____.		

## DETAILED ACTION

1. Claims 17-29 are pending in this examination. The Office acknowledges the cancellation of claims 1-16 in previous office actions.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17, and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleiman (USPN 5,515,38) (cited as prior art not relied upon in previous Office Action).

3. Referring to claim 17, Kleiman discloses a method of symmetric processing for an inter-process control (IPC) message-passing operating system (SunOS 5.0 supporting multiprocessors symmetrically, col. 4, lines 32-44 and col. 5, lines 35-55) where operating system calls execute in critical and non-critical areas (i.e. sections), said method comprising the steps of:

responding to an operating system call requiring access to a critical area of said IPC operating system by:  
requesting a global lock (raising priority level of thread) (col. 11, lines 39-67);

responding to said global lock being available by performing the steps of:  
acquiring said global lock (i.e. not allowing any other interrupt or thread access to  
a critical section before the current thread or interrupt has completed execution of the  
critical section of code by raising priority level high enough such that no other thread ma  
preempt the current thread) (col. 12, lines 2-11);  
performing operating system call in said critical area (interrupt handler) of said  
IPC operating system (col. 12, lines 53-55); and  
releasing said global lock (it is inherent that when an interrupt handler thread is  
finished, it is destroyed, thereby releasing the global lock and allowing other interrupts  
and threads to execute);

responding to said operating system call requiring access to a non-critical area of  
said IPC operating system by:

performing said operating system call in said non-critical area of said IPC  
operating system (it is inherent that other threads can call to non-critical areas of an  
operating system to execute instructions which are not time-critical or are standard  
system-wide processes such as garbage collection, statistics monitoring, periodic  
deadlock detecting, etc.).

4. Claims 23-26 are rejected for similar reasons as stated above. Furthermore  
Kleiman discloses a computer system comprising one or more processors (Figure 1) as  
well as a memory medium storing an operating system (Figure 1).

5. Referring to claim 27, Kleiman discloses performing an IPC message-pass operation for said operating system call (an IPC message-pass operation can be broadly construed to mean notifying the operating system to execute the critical area) (Figure 9 and pertinent portions of the disclosure).

6. Claim 28 is rejected for similar reasons as stated above. Furthermore it is inherent that a second iteration of the method described in Kleiman would yield the same result as the first iteration, therefore meeting the limitations of the aforementioned claim.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman in view of Dangelo (USPN 5,946,487).

8. Referring to claim 18, Kleiman discloses a method of symmetric multiprocessing as stated in the claims above. Kleiman does not specifically state that the operating system is a micro kernel operating system. Dangelo discloses another operating

system which provides mutual exclusion of critical code areas which does include a micro-kernel operating system (col. 8, lines 21-40; Figure 2). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Dangelo with Kleiman to provide for better alignment of program threads "on the fly" to better synchronize operations and reduce processor overhead while still providing the same functionality to the user and user threads as supported by Dangelo (col. 8, lines 26-35).

9. Referring to claim 19, Kleiman discloses a method of symmetric multiprocessing as stated in the claims above. Kleiman further discloses the operating system kernel is a pre-emptable kernel which pre-empts any non-critical threads (i.e. any threads with a lower priority than the current thread) prior to acquiring the global lock (col. 6, lines 56 to col. 7, line 5; col. 12, line 52-54; col. 13, line 61 to col. 14, line 20); and

reinstating said pre-empted threads following said step of releasing said global lock (it is an inherent feature that any halted thread will be reinstated since the thread must execute to complete).

Kleiman does not specifically state that the operating system is a micro kernel operating system. Dangelo discloses another operating system which provides mutual exclusion of critical code areas which does include a micro-kernel operating system (col. 8, lines 21-40; Figure 2). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Dangelo with Kleiman to provide for better alignment of program threads "on the fly" to better synchronize

operations and reduce processor overhead while still providing the same functionality to the user and user threads as supported by Dangelo (col. 8, lines 26-35).

10. Claim 20 is rejected for similar reasons as stated above.

11. Referring to claim 29, Kleiman discloses a method of symmetric processing as stated in the claims above. Kleiman further discloses performing an operating system call in a non-critical area of the IPC operating system by performing an external process for said operating system call (system calls) (col. 1, line 65 to col. 2, line 31). Kleiman does not specifically state that the operating system is a micro kernel operating system. Dangelo discloses another operating system which provides mutual exclusion of critical code areas which does include a micro-kernel operating system (col. 8, lines 21-40; Figure 2). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Dangelo with Kleiman to provide for better alignment of program threads "on the fly" to better synchronize operations and reduce processor overhead while still providing the same functionality to the user and user threads as supported by Dangelo (col. 8, lines 26-35).

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman in view of Dangelo in view of Jones et al. (USPN 5,812,844) (hereinafter Jones).

12. Referring to claim 11, Kleiman in view of Dangelo disclose a method of symmetric processing as stated in the claims above. Kleiman in view of Dangelo do not disclose prioritizing execution of threads in accordance with how their respective call latencies will impact real time operation. In analogous art, Jones discloses another method of process scheduling which discloses prioritizing execution of threads in accordance with how their respective call latencies will impact real time operation (col. 5, lines 57-67). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Jones with Kleiman and Dangelo to reduce scheduling overhead processing and further increase scheduling efficiency by increasing throughput of tasks while not allowing the overall thread wait to become unproductive.

13. Referring to claim 12, Kleiman in view of Dangelo disclose a method of symmetric processing as stated in the claims above. Kleiman in view of Dangelo do not disclose scheduling execution of said threads to be performed by predetermined time deadlines. Jones discloses scheduling execution of threads in a multitasking operating system to be performed by predetermined time deadlines (time-specific scheduling constraint) (col. 7, lines 27-31). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Jones with Kleiman and Dangelo to allow for time-specific scheduling and increase performance for modern multimedia applications as supported by Jones (col. 2, lines 50-53).

***Response to Amendment***

14. Applicant's arguments filed August 11, 2003 have been fully considered but they are not persuasive.

15. In the remarks, Applicant argues in substance that (1) Wang et al. and Gamache et al. are improper to combine and do not recite the limitations in the newly presented claims.

16. As to point (1), as necessitated by amendment, new art has been used to meet the new limitations presented, therefore the argument is moot.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Barr (USPN 6,119,115) discloses a method for reducing lock contention in a multiple instruction execution stream-processing environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JEA  
September 8, 2003



DAVID WILEY  
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